

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,)	CR. 08-50063-01-KES
)	
Plaintiff,)	
)	ORDER DENYING MOTION
vs.)	TO VACATE
)	SPECIAL ASSESSMENT
DANIEL D. TORRES,)	
)	
Defendant.)	

Defendant, Daniel D. Torres, moves this court to vacate the \$100 special assessment that was imposed on him at the time of his criminal sentencing. He contends that he does not make enough money to pay the special assessment and as a result, he is not eligible to be placed at a half-way house. The government opposes the motion. The motion is denied.

Only the United States has the authority to move the court for remission of a special assessment. See 18 U.S.C. § 3573. The language of § 3573 by its terms applies strictly to the United States and not to defendants. *United States v. Linker*, 920 F.2d 1, 2 (7th Cir. 1990). See also *United States v. Chacon-Vega*, 262 Fed. App'x 730 (8th Cir. 2008) (unreported) (“[O]nly the government may bring a petition to remit a fine under 18 U.S.C. § 3573.”). Because the court is without jurisdiction to hear this matter, the motion is denied with prejudice. As a result, it is

ORDERED that Torres's motion to vacate the court's imposed special assessment fee (Docket 52) is denied.

Dated October 23, 2012.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
CHIEF JUDGE